

REMARKS

Claims 1 and 3-46 are in the application. Claims 1 and 13 have been amended as have been 34 and 41. Claim 2 has been cancelled and incorporated into Claim 1. No new matter is believed added.

The claims have been made the subject of a restriction under 35 USC §121 and 35 USC §372 as shown below.

Group I: Claims 1-27, 39 and 46, drawn to compositions;

Group II: Claims 28-38, drawn to methods of making; and

Group III: Claims 40-45, drawn to methods of making.

It should be noted for the record that the PCT application was examined in the USPTO as the PCT receiving office. No lack of unity was previously found for this claim set by the Examiner. The basis for lack of a “single general inventive concept” as stated by the Examiner herein is that the method of Claim 28 (group II) does not present a contribution over claims 24 of Ignatious (WO 01/54667), thereby Group II does not share a special technical feature with the claims of Groups I and III. That would perhaps explain the basis for Group II, but what of Group III? The claims are all the result of a common research & development effort and should be examined together.

Applicants elect the claims of Group I herein. Claim 28 and Claim 40, while withdrawn from consideration have been amended to recite “according to Claim 1” which should require all the limitation of the composition to be included within the nonelected process claims in the event of rejoinder.

The Examiner also requires in the event of an election of Group I, a species election of: a) a polymeric carrier; b) a single active agent; and c) presence or absence of a surfactant in the composition.

The present invention is not limited to the particular active agents presented solely for illustration herein. Applicants respectfully traverse the Examiners statements that each chemical species is a distinct chemical moiety as it applies to the special technical features herein. If the chemical moiety contains an amorphous morphology the present invention is applicable to its use for preparation of a stable, solid dispersion of the amorphous form of the drug in an amorphous polymer. However, in order to advance prosecution on the merits, Applicants elect the active agent (3R,3aS,6aR)-hexahydrofuro[2,3-b]furan-3-yl (1S,2R)-3-[(1,3-benzodioxol-5-ylsulfonyl)(isobutyl)amino]-2-hydroxy-1-{4-[(2-methyl-1,3-thiazol-4-

USSN: 10/523,835


Art Unit: 4121

yl)methoxy]benzyl}propylcarbamate; the polymeric carrier of Eudragit L100-55, and inclusion of a surfactant. A working example of this may be found in the specification as Example 13. Claims 1, 3, 6, 8-12, 15-22 and 24 are encompassed within the elected set of parameters.

CONCLUSION

Should the Examiner have any questions or wish to discuss any aspect of this case, the Examiner is encouraged to call the undersigned at the number below. If any additional fees or charges are required by this paper the Commissioner is hereby authorized to charge Deposit account 19-2570 accordingly.

Respectfully submitted,



Dara L. Dinner
Attorney for Applicants
Registration No. 33,680

GLAXOSMITHKLINE
Corporate Intellectual Property UW2220
P.O. Box 1539
King of Prussia, PA 19406-0939
Phone (610) 270-5017
Facsimile (610) 270-5090